



To: Paul Croce, Chair
Planning Board members

From: Ron Wolanski, Town Planner

Date: February 21, 2023

Re: Review and recommendation to the Town Council on proposed amendments to the Middletown Zoning Ordinance, Town Code Chapter 152, Section 727 – Marijuana Related Uses.

In response to recent amendments to state law regarding legalization of use and sale of recreational cannabis, and the vote of Middletown citizens to allow retail sale and other uses related to recreational cannabis, the Town Solicitor has prepared the attached proposed amendments to Zoning Ordinance Section 727 – Marijuana Related Uses

The attached draft includes the following components:

1. Allowing certain cannabis establishments, including cannabis cultivation center, compassion center, and cannabis retailer by special use permit in the Light Industrial and General Business zoning districts.
2. Allowing cannabis product manufacturing by special use permit in Light Industrial and Office Park districts.
3. Allowing cannabis laboratories by special use permit in the Office Park zoning district.
4. Any structure containing a Cannabis Cultivation center, Cannabis Product Manufacturer, Cannabis Retailer, or Compassion Center shall not be located within:
 - a. One hundred feet (100') of the nearest residential zoning district or the lot line of a residential use within a nonresidential zoning district;
 - b. Two hundred feet (200') of the nearest house of worship, park, playground, play field, youth center, or other location where groups of minors regularly congregate; or
 - c. Five hundred feet (500') of the nearest licensed day-care center, public or private school providing education in kindergarten or any of grades one through twelve (12);
5. Any structure containing a Cannabis Laboratory shall not be located within:
 - a. One hundred feet (100') of the nearest residential zoning district or the lot line of a residential use within a nonresidential zoning district; or
 - b. Two hundred feet (200') of the nearest house of worship, school, public or private, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;

Should the planning board wish to move forward with the proposed zoning ordinance amendments the board should consider scheduling a public workshop meeting to present the draft and accept public comments. Once the Board has considered public comment and made any necessary revisions to the draft amendments, the proposal and the board's recommendation should be forwarded to the Town Council for consideration. The Town Council must then hold a formal public hearing before amendments are adopted.

In support of its recommendation to the Town Council the Board must make the following findings in accordance with the requirements of Section 45-24-52 of the Rhode Island General Laws:

(1) The proposed amendment is generally consistent with the Middletown Comprehensive Community Plan , including the goals and policies statement, the implementation program, and all other applicable elements of the comprehensive plan; and

(2) This recommendation is made in recognition and consideration of each of the applicable purposes of zoning, as presented in § 45-24-30 RIGL

Please feel free to contact me with any questions.

Cc: Town Solicitor

ORDINANCE OF THE
TOWN OF MIDDLETOWN, RHODE ISLAND

AN ORDINANCE AMENDING THE TOWN CODE OF THE
TOWN OF MIDDLETOWN

TITLE XV: LAND USAGE
Chapter 152, Zoning Code

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

FIRST: That Town Code Title XV, Chapter 152, Entitled “Zoning Code”, Article 7, Section 727 “Marijuana Related Uses”, is amended as follows (language to be deleted is stricken out within brackets; language to be added is underlined and presented in red ink):

Section 727 ~~Marijuana~~ Cannabis Related Uses

(A) *Legislative findings and intent.*

- (1) The Edward O. Hawkins and Thomas C. Slater Medical Marijuana Act, R.I. Gen. Law § 21-28.6-1 *et seq.*, has been enacted by the Rhode Island General Assembly (the “Medical Marijuana Act”).
- (2) The Medical Marijuana Act provides that the growing of medical marijuana by duly licensed patients and caregivers is permitted in all zoning districts, and that two or more qualifying “cardholders” may cooperatively cultivate marijuana in residential or nonresidential locations.
- (3) The Medical Marijuana Act further provides for the licensing of “compassion centers” that act as dispensaries for the cultivation, manufacture, delivery, and sale of medical marijuana to licensed patients and caregivers.

- (4) ~~The Rhode Island Cannabis Act, R.I. Gen Law § 21-28.11-1 *et. seq.*, was enacted by the Rhode Island General Assembly (the “RI Cannabis Act”), which legalizes the possession of cannabis for personal use by adults aged twenty-one (21) and older and authorized each municipality to hold a referendum as to whether to issue new cannabis related licenses for businesses involved in the cultivation, manufacture, laboratory testing and for the retail sale of adult recreational use cannabis. Duly licensed patients are not persons with a disability as defined in the Americans with Disabilities Act U.S. Code § 12101 (“ADA”), and are not entitled to protection under the ADA.~~
- (5) ~~The Town of Middletown held such a referendum on November 8, 2022, with 56.9% of voters in favor of issuing such licenses and 43.1% opposed. It is anticipated that the Rhode Island General Assembly may ultimately enact legislation legalizing the recreational use of marijuana. Recreational use of marijuana is a matter of personal choice, as with any other recreational drug such as alcohol and nicotine, and the Town of Middletown considers the protection of the public’s health, safety, and general welfare of paramount concern in regulating this use. The Town of Middletown wishes to be prepared for such an eventuality by adopting zoning ordinance amendments to address the issues posed by recreational uses.~~
- (6) The Town of Middletown recognizes the needs of patients requiring care through the use of medical cannabis marijuana consistent with the health, safety, and general welfare of the community at large, but must balance those needs with the reality that the cultivation of cannabis marijuana, without the proper inspections and permits, or compliance with applicable fire and building codes, threatens the public’s health, safety, and general welfare.
- (7) Ensuring that marijuana cannabis-related businesses are located and operated in a manner that minimizes any adverse impacts thereof is necessary to protect the public health, safety, and general welfare of all residents and visitors.
- (8) ~~Notwithstanding the enactment of the RI Cannabis Act, cannabis-Marijuana~~-related businesses, including cultivation facilities, manufacturing facilities, testing facilities, compassion centers, and retail marijuana cannabis stores, have the potential to cause serious adverse secondary impacts. These secondary impacts, which pose a threat to the public’s health, safety, and general welfare, include increased crime, illegal sales of cannabis marijuana to and use of cannabis marijuana by those under twenty-one (21) years of age minors and others without medical need, the use of cannabis marijuana in public areas, and adverse impacts on neighboring businesses and properties, including odor complaints, traffic, and decreased property values.
- ~~(9) —The Town Council finds and determines, after careful consideration and evaluation of the potential adverse secondary impacts associated with marijuana related businesses, including compassion centers, retail marijuana stores, marijuana~~

~~cultivation centers and marijuana testing facilities, that such land uses adversely affect the public health, safety, and welfare of the town and its inhabitants. The Town Council therefore finds and determines that no suitable location exists within the town for these particular marijuana related businesses.~~

~~(910) In the event it is determined that the Town Council lacks the authority to prohibit marijuana related businesses in Middletown, e~~ Ensuring that facilities used for cannabis related businesses ~~the cultivation and testing of medical marijuana~~ are properly located, inspected, permitted, and in compliance with applicable fire and building codes, is necessary to protect the public health, safety, and welfare of all town residents and visitors.

~~(11) The Town Council intends, by the enactment of this section, to protect the health, safety, and welfare of all residents and visitors by ensuring that facilities used for the cultivation and testing of medical marijuana in town are properly inspected, permitted, and in compliance with applicable fire and building codes.~~

(10) The Town Council intends, by the enactment of this revised ordinance, to bring the Town Code in conformance with the RI Cannabis Act and to protect the health, safety, and welfare of all residents and visitors by implementing reasonable safeguards on the operation of cannabis related businesses.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CANNABIS. All parts of any plant of the genus cannabis not excepted herein, and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol; provided, however, that “cannabis” shall not include:

_____ (i) The mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination;

_____ (ii) Hemp; or

_____ (iii) The weight of any other ingredient combined with cannabis to prepare topical or oral administration, food, drink or other products.

CANNABIS CULTIVATOR. An entity licensed to cultivate, process and package cannabis, to deliver cannabis to cannabis establishments and to transfer cannabis to other cannabis establishments, but not to consumers.

CANNABIS ESTABLISHMENT. A cannabis cultivator, cannabis testing laboratory, cannabis product manufacturer, cannabis retailer, hybrid cannabis retailer or any other type of licensed cannabis-related business, including Compassion Centers.

CANNABIS TESTING LABORATORY. A third-party analytical testing laboratory that is licensed annually by the Rhode Island Cannabis Commission, in consultation with the department of health, to collect and test samples of cannabis.

CANNABIS PRODUCT MANUFACTURER. An entity licensed to obtain, manufacture, process and package cannabis and cannabis products, to deliver cannabis and cannabis products to cannabis establishments and to transfer cannabis and cannabis products to other cannabis establishments, but not to consumers.

CANNABIS PRODUCTS. Products that have been manufactured and contain cannabis or an extract from cannabis, including concentrated forms of cannabis and products composed of cannabis and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

CANNABIS RETAILER. An entity licensed pursuant to R.I.G.L. § 21-28.11-10.2 to purchase and deliver cannabis and cannabis products from cannabis establishments and to deliver, sell or otherwise transfer cannabis and cannabis products to cannabis establishments and to consumers.

CARDHOLDER. A person who has been registered or licensed with DOH or DBR pursuant to the [Act Medical Marijuana Act](#) and possesses a valid registry identification card or license as further defined in 230-RICR-80-05-1 § 1.1.1.A.7, or as may come to be defined by the Rhode Island Cannabis Control Commission.

CAREGIVER CULTIVATION. Marijuana cultivation for medical use only by a single registered caregiver cardholder, as defined in R.I. Gen. Law § 21-28.6-1 et seq.

COMPASSION CENTER. As defined in R.I. Gen. Law § 21-28.6-3, a not-for-profit entity registered under R.I. Gen. Law § 21-28.6-12 that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies or dispenses marijuana, and or related supplies and education materials, to patient cardholders or their registered caregiver, cardholder or authorized purchaser.

~~**MARIJUANA CULTIVATION CENTER.** Any entity that, under state law, may acquire, possess, cultivate, manufacture, deliver, transfer, transport, or supply marijuana, medical or otherwise, to a registered compassion center, or other entity authorized to dispense marijuana.~~

~~**MARIJUANA EMPORIUM.** Any establishment, facility or club, whether operated for profit or nonprofit, or any commercial unit, at which the sale, distribution, transfer, or use of marijuana, medical or otherwise, takes place. This shall include without limitation any so-called "vape lounge," "vapor lounge," or any other establishment at which marijuana, medical or otherwise, is consumed in any form. This shall not include a compassion center or marijuana cultivation center regulated and licensed by the State of Rhode Island, as defined herein.~~

~~**MARIJUANA-RELATED BUSINESS.** A compassion center, marijuana cultivation center, marijuana emporium, marijuana store, or marijuana testing provider, as defined herein.~~

~~**MARIJUANA-RELATED USE.** A compassion center, marijuana cultivation center, marijuana emporium, marijuana store, marijuana testing provider, caregiver cultivation, patient cultivation, residential cooperative cultivation, or nonresidential cooperative cultivation as defined herein.~~

~~**MARIJUANA STORE.** Any retail establishment at which the sale or use of marijuana, medical or otherwise, takes place. This shall not include a compassion center regulated and licensed by the State of Rhode Island, as defined herein.~~

~~**MARIJUANA TESTING PROVIDER.** Any entity that, under state law, may perform independent testing of marijuana or marijuana products, medical or otherwise.~~

NONRESIDENTIAL COOPERATIVE CULTIVATION. Two or more cardholders who cooperatively cultivate medical marijuana in indoor, nonresidential locations, subject to the restrictions set forth in R.I. Gen. Laws § 21-28.6-14 and this section.

PATIENT CULTIVATION. Indoor marijuana cultivation by a single registered patient cardholder for medical use only, as defined in R.I. Gen. Laws § 21-28.6-1 et seq.

RESIDENTIAL COOPERATIVE CULTIVATION. Two or more cardholders who cooperatively cultivate medical marijuana in indoor, residential locations, subject to the restrictions set forth in R.I. Gen. Laws § 21-28.6-14 and this section.

(C) *Use regulations; special use permit required.*

~~—(1) Compassion centers, marijuana emporiums, and marijuana stores are prohibited in all zoning districts.~~

~~—(2) Marijuana cultivation centers are prohibited in all zoning districts; provided however, in the event it is determined that the Town Council lacks the authority to prohibit marijuana cultivation centers in Middletown, marijuana cultivation centers shall be permitted in the Light Industrial and Light Industrial Traffic Sensitive zoning districts, upon the grant of a special use permit, as hereinafter set forth.~~

~~—(3) Marijuana testing providers are prohibited in all zoning districts; provided however, in the event it is determined that the Town Council lacks the authority to prohibit marijuana testing providers in Middletown, marijuana testing providers shall be permitted in the Office Park zoning district upon the grant of a special use permit, as hereinafter set forth.~~

~~—(4) In the event it is determined that the Town Council lacks the authority to prohibit marijuana cultivation centers or marijuana testing providers in Middletown, a special permit for a marijuana cultivation center or a marijuana testing provider may be granted if all the following standards have been met:~~

(1) Cannabis Cultivation centers shall be permitted in the Light Industrial, Light Industrial Traffic Sensitive and General Business zoning districts, upon the grant of a special use permit, as hereinafter set forth.

(2) Cannabis Product Manufacturers shall be permitted in the Light Industrial, Light Industrial Traffic Sensitive and Office Park zoning districts, upon the grant of a special use permit, as hereinafter set forth.

(3) Cannabis Laboratories shall be permitted in the Office Park zoning district upon the grant of a special use permit, as hereinafter set forth.

(4) Compassion centers shall be permitted in the Light Industrial, Light Industrial Traffic Sensitive and General Business zoning districts, upon the grant of a special use permit, as hereinafter set forth.

(5) Cannabis retailers shall be permitted in the Light Industrial, Light Industrial Traffic Sensitive and General Business zoning districts, upon the grant of a special use permit, as hereinafter set forth.

(a) *Application.*

1. Submission of a complete application for a special use permit pursuant to this section with the legal name and address of the ~~marijuana cultivation center or marijuana testing provider~~Cannabis Establishment; a copy of the articles of incorporation or organization of the ~~marijuana cultivation center or marijuana testing provider~~Cannabis Establishment; and the name, address, and date of birth of each principal officer and board member of the ~~marijuana cultivation center or marijuana testing provider~~Cannabis Establishment; and

2. A site plan depicting all existing and proposed buildings, parking spaces, driveways, service areas, and other existing uses. The site plan shall show the distances between the proposed use and the boundary of the nearest residential zoning district and the

property line of all other abutting uses. The site plan submitted shall identify all lighting on the property and demonstrate that all lighting will comply with the standards set forth below.

(b) *Findings.*

1. That the requested use at the proposed location will not adversely affect the health, safety, or general welfare of the neighborhood or Town of Middletown;

2. That the requested use at the proposed location will not adversely affect the use of any property used for school, public or private, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;

3. That the requested use at the proposed location incorporates buffers that fully protect nearby residential uses from any adverse impact; and

4. That the exterior appearance of the structure and grounds shall comply with the Commercial Development Design Standards contained in Article 5 of the Rules and Regulations Regarding the Subdivision and Development of Land, as applicable.

(c) *Location.*

1. Any structure containing ~~marijuana cultivation centers~~ a Cannabis Cultivation center, Cannabis Product Manufacturer, Cannabis Retailer, or Compassion Center shall not be located within:

a. One hundred feet (100') of the nearest residential zoning district or the lot line of a residential use within a nonresidential zoning district;

b. Two hundred feet (200') of the nearest house of worship, park, playground, play field, youth center, ~~licensed day-care center~~, or other location where groups of minors regularly congregate; or

c. ~~One thousand feet (1,000')~~ Five hundred feet (500') of the nearest ~~licensed day-care center, school, public or private public or private school providing education in kindergarten or any of grades one through twelve (12);~~

2. Any structure containing ~~marijuana testing providers~~ a Cannabis Laboratory shall not be located within:

a. One hundred feet (100') of the nearest residential zoning district or the lot line of a residential use within a nonresidential zoning district; or

b. Two hundred feet (200') of the nearest house of worship, school, public or private, park, playground, play field, youth center, licensed day-care center, or other location where groups of minors regularly congregate;

3. The distances specified above shall be measured by a straight line from the nearest property line of a residential zoning district or a residential use within a nonresidential zoning district to the structure in which ~~the Cannabis Establishment a marijuana cultivation center or marijuana testing provider~~ Cannabis Establishment is to be located.

(d) *Lighting.*

1. Lighting shall adequately illuminate a ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishments, their immediate surrounding area, any accessory uses, including storage areas, parking lots, the facility's front facade, and any adjoining public sidewalk.

2. No portion of the site shall be illuminated between the hours of ~~10:00 p.m.~~ 10:30 p.m. and 8:00 a.m. by lighting that is visible from the exterior of the facility, except such lighting as is reasonably utilized for security. Lighting necessary for security shall consist solely of motion-sensor lights and avoid adverse impacts on properties surrounding the lot on which the facility is located. All exterior light sources shall comply with the International Dark Sky Association. Perimeter fencing shall be surrounded with lights capable of illuminating all sides of the fence for at least 20 feet from the fence. Such lights must be motion sensing for use during restricted hours.

3. All exterior lighting should be fully shielded, directed downward and hooded so as not to cast light off the property onto neighboring properties or skyward.

(e) *Security.*

1. ~~A marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishments shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing ~~marijuana~~ cannabis and shall insure that each location has an operational security alarm system.

2. ~~A marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishments shall have a digital video surveillance system with a minimum camera resolution of 1280 x 720 pixels (HD ready or standard HD). Cameras shall record continuously 24 hours per day and at a minimum of 15 frames per second (FPS). The physical media or storage device on which surveillance recordings are stored shall be secured in a manner to protect the recording from tampering or theft. Surveillance recordings shall be kept for a minimum of 90 days. The video surveillance system shall always be able to effectively and clearly record images of the area under surveillance. Each camera shall be permanently mounted and in a fixed location. Each camera shall be placed in a location that allows the camera to clearly record activity occurring within 20-feet of all points of entry and exits at a Cannabis Establishment ~~marijuana cultivation center and marijuana testing provider~~, and assure the clear and certain identification of any person and activities in all areas required to be filmed. Areas that shall be recorded on the video surveillance system include, but are not limited to, the following:

- a. Areas where ~~marijuana goods~~ Cannabis Products are weighed, packed, stored, loaded and unloaded for transportation, prepared, or moved within a ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishment;
- b. Limited-access areas;
- c. Security rooms;
- d. Areas storing a surveillance-system storage device with at least one camera recording the access points to the secured surveillance recording area; ~~and~~
- e. Entrances and exits to ~~a marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishments, which shall be recorded from both indoor and outdoor vantage points; ~~and~~
- f. At any point of sale.

3. All exterior portions of a ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishment shall be adequately illuminated as to make discernible the faces and clothing of persons utilizing the space.

4. Exterior mounted devices at ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishments are prohibited, including security bars, grates, grills, barricades, and similar devices. The use of wrought iron spears and barbed wire (concertina and straight) are also prohibited.

5. A ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishment shall ensure that the limited-access areas can be securely locked using commercial-grade, nonresidential door locks in accordance with the approved security plan. ~~marijuana cultivation center and a marijuana testing provider~~ A Cannabis Establishment shall also use commercial-grade, nonresidential locks on all points of entry and exit to the ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishment in accordance with its approved security plan, which plan shall be included with the application for a special permit.

6. ~~A marijuana cultivation center and a marijuana testing provider~~ A Cannabis Establishment shall maintain an alarm system in accordance with its approved security plan, which plan shall be included with the application for a special permit.

7. A ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishment shall only permit authorized individuals to enter the limited access areas of their facility. Authorized individuals include individuals employed by the ~~marijuana cultivation center or a marijuana testing provider~~ Cannabis Establishment as well as any outside vendors, contractors, labor representatives, or other individuals who have a bona fide business reason for entering the limited access area. An individual who is not an authorized individual for purposes of entering the limited access areas shall not enter the limited access area at any time for any reason. An individual in the limited access area who is not employed by the ~~marijuana cultivation center or a marijuana testing provider~~ Cannabis Establishment shall be escorted by individuals employed by the ~~marijuana cultivation center or the marijuana~~

~~testing provider Cannabis Establishment~~ at all times within the limited access area. An individual who enters the limited access areas shall be at least 21 years of age. A ~~marijuana cultivation center and a marijuana testing provider Cannabis Establishment~~ shall maintain a log of all authorized individuals that enter the limited access area and are not employees. A ~~marijuana cultivation center and a marijuana testing provider Cannabis Establishment~~ shall not receive consideration or compensation for permitting an individual to enter the limited access area.

(f) *Odor.*

1. A ~~marijuana cultivation center and a marijuana testing provider Cannabis Establishment~~ shall be properly ventilated and the exhaust air filtered to neutralize the odor from marijuana so that the odor cannot be detected by a person with a normal sense of smell at the exterior of the ~~marijuana cannabis~~ cultivation center and a ~~marijuana cannabis~~ testing provider or on any adjoining property. No operable windows or exhaust vents shall be located on the building facade that abuts a residential use or zone. Exhaust vents on rooftops shall direct exhaust away from residential uses or zones.

2. ~~A marijuana cultivation center and a marijuana testing provider~~ A Cannabis Establishment shall have an odor control plan including:

a. *Facility information.*

- (i) Name of facility;
- (ii) Name, phone number, and email of facility owner;
- (iii) Name, phone number, and email of facility operator or licensee, and any authorized designees;
- (iv) Facility physical address;
- (v) Facility mailing address (if different from physical address);
- (vi) Facility type;
- (vii) Facility hours of operation;
- (viii) Description of facility operations;
- (ix) Emergency contact information;
- (x) Business license application number(s) and/or business file numbers) (if applicable); and
- (xi) Air permit and permit number (if applicable);

b. *Facility odor emissions information.*

(i) Facility floor plan with a facility floor plan, with locations of odor-emitting activities and emissions specified. Relevant information may include, but is not limited to, the location of doors, windows, ventilation systems, and odor sources. If the owner or operator of a ~~marijuana cultivation center and a marijuana testing provider~~ Cannabis Establishment believes that certain information contained in its odor control plan is confidential, it should clearly mark all information as such; and

(ii) Description of the odor-emitting activities or processes that take place at the facility, including the sources of those odors, and the locations from which they are emitted, and phases of odor-emitting activities, with the times at which odors may be most prevalent.

c. *Odor mitigation practices.* For each odor-emitting source/process of the odor control plan, specify the administrative and engineering controls the facility implements or will implement to control odors, including, but not limited to:

(i) *Administrative controls.*

A. Procedural activities such as building management responsibilities in isolating odor emitting activities from other areas of the buildings through closing doors and windows;

B. Staff training procedures describing the organizational responsibilities and the staff members who will be trained about odor control; the specific administrative and engineering activities that the training will encompass; and the frequency, duration, and format of the training; and

C. Recordkeeping systems and forms with a description of the records that will be maintained such as records of purchases of replacement carbon, performed maintenance tracking, documentation and notification of malfunctions, scheduled and performed training sessions, and monitoring of administrative and engineering controls. Examples of facility recordkeeping forms should be included as appendices to the odor control plan.

(ii) *Engineering controls.*

A. The best control technology for ~~marijuana cultivation facilities~~ Cannabis Establishments is carbon filtration;

B. Engineering controls shall meet at least one of the following:

i. Are consistent with accepted and available industry-specific best control technologies designed to effectively mitigate odors for all odor sources;

ii. Have been reviewed and certified by a professional engineer or a certified industrial hygienist as sufficient to effectively mitigate odors for all odor sources; and

iii. Have been approved by the Rhode Island Department of Environmental Management as sufficient to effectively mitigate odors for all odor sources;

C. Components of engineering controls shall include, but is not limited to, technical system design, a description of technical processes and an equipment maintenance plan;

D. The system design should describe the odor control technologies that are installed and operational at the facility (e.g., carbon filtration) and to which odor-emitting activities, sources, and locations they are applied (e.g., bud room exhaust; testing room) and describe critical design factors and criteria, with supporting calculations presented as appropriate (e.g., desired air exchanges per hour required to treat odorous air from specific areas, odor capture mechanisms, exhaust flow rates, rates of carbon adsorption consumption);

E. The operational processes should describe the activities being undertaken to ensure the odor mitigation system remains functional, the frequency with which such activities are performed, and the personnel responsible; and

F. The maintenance plan should describe the maintenance activities that are performed, the frequency with which such activities are performed, and the personnel responsible. The activities should serve to maintain the odor mitigation systems and optimize performance.

d. *Parking.* All uses permitted under this section shall comply with the off-street parking and loading requirements and regulations of this chapter.

(g) *Hours of Operations for Cannabis Retailers.*

1. No Cannabis Retailer shall be open for business outside of the hours of 10 a.m. to 10 p.m. Monday through Saturday and between the hours of 10 a.m. and 6 p.m. on Sunday.

(D) *Patient cultivation.* Patient cultivation shall be permitted in all residential, commercial and industrial zoning districts; provided however, that patient cultivation shall not be allowed unless all of the following criteria has been met:

(1) Patient cultivation shall only be allowed at the patient cardholder's primary residence. If the patient cardholder does not own the subject property, the owners of the subject property shall provide written acknowledgment and approval of the proposed use, which shall be appropriately notarized prior to review and approval by the town.

(2) The patient cardholder shall apply for the appropriate approvals and inspections by the Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I. Gen. Laws § 23-28.1 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4.

(3) The patient cardholder shall apply for a zoning certificate, and the patient cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I. Gen. Laws. § 23-27-3. All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the patient cardholder.

(4) In addition to the requirements above, the patient cardholder shall demonstrate to the Building Official that the following requirements have been met:

(a) That the area used for growing is secured by locked doors;

(b) That the area used for growing has two means of egress;

(c) That the area used for growing shall not be within ten feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;

(d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;

(e) That the area used for growing shall have carbon filters installed to reduce odors; and

(f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department.

(5) *Zoning certificates.* Fire Department inspection and/or review, or building/trade permits, are not required for patient cardholders cultivating marijuana by natural means that do not make modifications to existing electrical, mechanical or plumbing services in their place of primary residence in a residential zoning district.

(6) Patient cultivation possession limits shall be as stated in the Rhode Island General Laws.

(7) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

(E) *Caregiver cultivation.* Caregiver cultivation shall be permitted in all residential, commercial and industrial zoning districts, but shall not be permitted in any multifamily dwellings of three or more residential units. Additionally, caregiver cultivation shall not be allowed unless each of the following criteria has been met:

(1) If the caregiver cardholder does not own the subject property, the owner(s) of the subject property shall provide written acknowledgment and approval of the proposed use, which shall be appropriately notarized;

(2) The caregiver cardholder shall apply for the appropriate approvals and inspections by the Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I. Gen. Laws § 23-28.1 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and are not subject to review by any party other than the cardholder;

(3) The caregiver cardholder shall apply for a zoning certificate, and the caregiver cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I. Gen. Laws § 23-27-100.01 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4;

(4) In addition to the requirements above, the caregiver cardholder shall demonstrate to the Building Official that the following requirements have been met:

(a) That the area used for growing is secured by locked doors;

(b) That the area used for growing has two means of egress;

(c) That the area used for growing shall not be within ten feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;

(d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;

(e) That the area used for growing shall have carbon filters installed to reduce odors; and

(f) That smoke alarms/detectors are installed in accordance with the State Fire Code and to the satisfaction of the Fire Chief;

(5) Caregiver cultivation possession limits shall be as stated in the Rhode Island General Laws; and

(6) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

(F) *Residential cooperative cultivation.* Residential cooperative cultivation, as defined under this section, shall be permitted in all residential zoning districts, but only upon the issuance of a special use permit. Additionally, such special use permit shall not be granted unless each of the following standards have been met:

(1) A property containing a residential cooperative cultivation use shall not be located ~~closer than 500 feet to where any place of religious worship, preschool, elementary or secondary school, day care/child care center, athletic field or playground is located~~ within Five Hundred feet (500') of the nearest licensed day-care center or private school providing education in kindergarten or any of grades one through twelve (12), nor shall such a property be located within two hundred feet (200') of the nearest house of worship, park, playground, play field, youth center, or other location where groups of minors regularly congregate;

(2) A patient cardholder shall only cooperatively cultivate in one location;

(3) No single location shall have more than one cooperative cultivation. For the purpose of this section, location means one structural building, not units within a structural building;

(4) The cooperative cultivation shall not be visible from the street or other public areas;

(5) A written acknowledgement of the limitation of the right to use and possess ~~marijuana~~ cannabis for medical purposes in Rhode Island, that is signed by each cardholder, shall be prominently displayed on the premises;

(6) The property owner shall apply for the appropriate approvals and inspections by the Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I. Gen. Laws § 23-28.1 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4;

(7) The property owner shall apply for a zoning certificate, and the caregiver cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I. Gen. Laws § 23-27-100.01 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4;

(8) A residential cooperative cultivation must have displayed prominently on the premises an affidavit by a licensed electrician that the cultivation has been inspected and complies with any applicable state laws and Town of Middletown housing and zoning codes;

(9) The location of the cooperative cultivation must be reported to the Division of State Police by the applicant for the special use permit;

(10) In addition to the requirements above, the cooperative shall demonstrate to the Building Official that the following requirements have been met:

(a) That the area used for growing is secured by locked doors;

(b) That the area used for growing has two means of egress;

(c) That the area used for growing shall not be within ten feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;

(d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;

(e) That the area used for growing shall have carbon filters installed to reduce odors; and

(f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department;

(11) Residential cooperative cultivation possession limits shall be as stated in the Rhode Island General Laws; and

(12) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

(G) *Nonresidential cooperative cultivation.*

Nonresidential cooperative cultivation shall be prohibited in all zoning districts except the Light Industrial and Light Industrial Traffic Sensitive zoning districts, and only upon the issuance of a special use permit. Additionally, such special use permit shall not be granted unless each of the following standards have been met:

(1) A property containing medical marijuana and cultivated by a nonresidential cooperative cultivation shall not be located ~~closer than 500 feet to where any place of religious worship, preschool, elementary or secondary school, day-care/child-care center, athletic field or playground is located~~ within Five Hundred feet (500') of the nearest licensed day-care center or private school providing education in kindergarten or any of grades one through twelve (12), nor shall such a property be located within two hundred feet (200') of the nearest house of worship, park, playground, play field, youth center, or other location where groups of minors regularly congregate;

(2) A cardholder shall only cooperatively cultivate in one location;

(3) No single location shall have more than one cooperative cultivation. For the purpose of this section, location means one structural building, not units within a structural building;

- (4) Identification of the location of a nonresidential cooperative cultivation location shall be limited to a directional sign only;
- (5) A written acknowledgement of the limitation of the right to use and possess marijuana-cannabis for medical purposes in Rhode Island, that is signed by each cardholder, shall be prominently displayed on the premises;
- (6) The property owner shall apply for the appropriate approvals and inspections by the local Fire Chief. The Fire Chief shall approve the application for permits pursuant to R.I. Gen. Laws § 23-28.1 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Fire Chief and are not subject to review by any party other than the cardholder pursuant to 230-RICR-80-05-1 § 1.9.4;
- (7) The property owner shall apply for a zoning certificate, and the caregiver cardholder or a licensed contractor shall apply for all appropriate zoning, building, electrical, mechanical and plumbing permits as required by the Rhode Island State Building Code. The Building Official shall approve the application for permits pursuant to R.I. Gen. Laws § 23-27-100.01 *et seq.* All permits applied for in furtherance of the Act shall be sealed and kept confidential by the Building Official and are not subject to review by any party other than the cardholder;
- (8) A nonresidential cooperative cultivation must have displayed prominently on the premises documentation from the Town of Middletown that the location and the cultivation has been inspected by the Middletown Building and Zoning Official and the Fire Chief and is in compliance with any applicable state or municipal housing and zoning code;
- (9) The location of the cooperative cultivation must be reported to the Division of State Police by the applicant for the special use permit;
- (10) In addition to the requirements above, the cooperative shall demonstrate to the Building Official that the following requirements have been met:
 - (a) That the area used for growing is secured by locked doors;
 - (b) That the area used for growing has two means of egress;
 - (c) That the area used for growing shall not be within ten feet of a heating or other ignition source such as an electric, propane, natural gas or oil-fired furnace or heater or as required per manufacturer specifications of such source;
 - (d) That the area used for growing shall have proper ventilation to mitigate the risk of mold;
 - (e) That the area used for growing shall have carbon filters installed to reduce odors; and

(f) That smoke alarms/detectors are installed in accordance with the State Fire Code and/or to the satisfaction of the Fire Department;

(11) Nonresidential cooperative cultivation possession limits shall be as stated in the Rhode Island General Laws; and

(12) The use of butane, propane or other solvents used for the purposes of marijuana extraction shall be strictly prohibited in all districts.

(H) *Enforcement.*

(1) All unpermitted preexisting cultivation shall be required to comply with this section.

~~(2) No use permitted under this section shall be allowed a freestanding accessory sign.~~

(3) All uses permitted under this section shall comply fully with all licensing requirements of the Town of Middletown ~~and the~~ laws of the State of Rhode Island, and the Rhode Island Cannabis Commission.

(4) Any person or organization found to be in violation of this section shall be subject to penalties set forth in § 316 of this chapter.

(I) *Severability.* If any provision of this section, or application thereof to any person or circumstances, is held unconstitutional, illegal, or otherwise invalid, the remaining provisions of this article and the application of such provisions to other persons or circumstances, other than those to which it is held invalid, shall not be affected thereby.

SECOND: That Town Code Title XV, Chapter 152, Entitled “Zoning Code”, Article 5, Section 502 – Schedule of District Regulations – Uses and Districts, is amended by replacing the existing cannabis-related uses with the following uses:

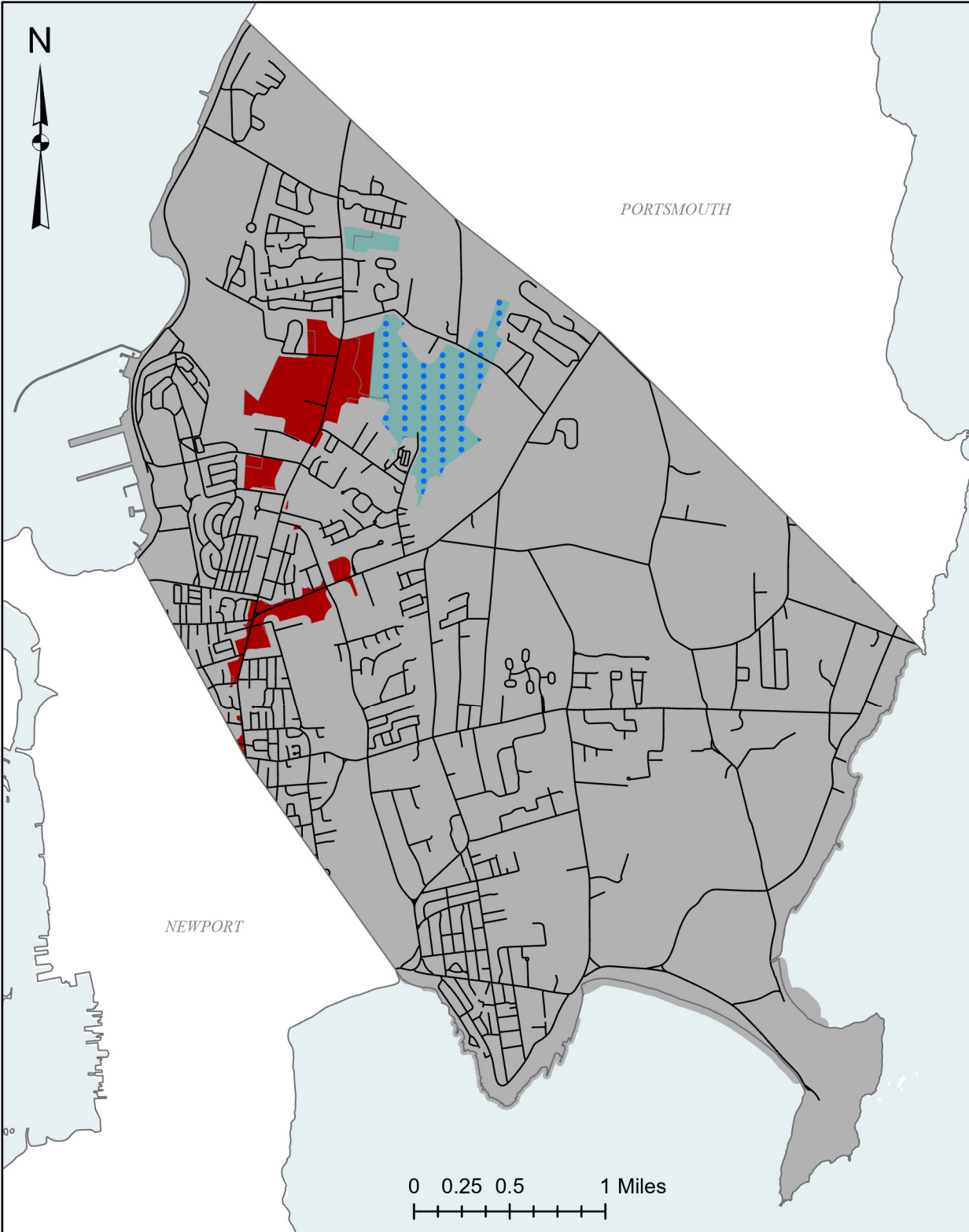
	<i>R60</i>	<i>R40</i>	<i>R30</i>	<i>R20</i>	<i>R10</i>	<i>RM</i>	<i>GB</i>	<i>LB</i>	<i>OB</i>	<i>LI</i>	<i>LP</i>	<i>OP</i>	<i>OS</i>	<i>P</i>	<i>MT</i>	<i>ABD</i>
Compassion Center (medical)	N	N	N	N	N	N	S	N	N	S	S	N	N	N	N	N
Cannabis Retailer (medical or recreational)	N	N	N	N	N	N	S	N	N	S	S	N	N	N	N	N
Cannabis Product Manufacturer (medical or recreational)	N	N	N	N	N	N	N	N	N	S	S	S	N	N	N	N
Cannabis Cultivation Center (medical or recreational)	N	N	N	N	N	N	S	N	N	S	S	N	N	N	N	N
Non-Residential Cooperative Cultivation (medical)	N	N	N	N	N	N	S	S	N	S	S	N	N	N	N	N
Residential Cooperative Cultivation (medical)	S	S	S	S	S	S	N	N	N	N	N	N	N	N	S	N
Patient Cultivation (medical)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y
Caregiver Cultivation (medical)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	Y
Cannabis Laboratory		N	N	N	N	N	N	N	N	N	N	S	N	N	N	N

(medical or recreational)																			
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THIRD: This Ordinance shall take effect upon adoption and its provision shall supersede any inconsistent or contrary provision in any other ordinance.

READ AND ADOPTED IN COUNCIL

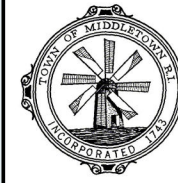
Wendy J.W. Marshall, CMC
Town Clerk



PORTSMOUTH

NEWPORT

0 0.25 0.5 1 Miles
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TOWN OF MIDDLETOWN

Allowable Locations
Marijuana Zoning Ordinance Amendment






Cannabis Cultivation Center, Compassion Centers, and Cannabis Retailers

This map depicts the areas where a cannabis cultivation center, compassion center, or cannabis retailer could be located, subject to a special use permit and other restrictions in the proposed ordinance.

Allowable areas are:

1. Light Industrial and General Business zoning districts
2. Greater than 100 feet from a residential zone or use property line
3. Greater than 200 feet from a house of worship, park, playground, or youth center
4. Greater than 500 feet from a school or licensed day-center center.

Legend

-  GB - General Business
-  LI - Light Industrial
-  Not Allowed
-  Airport Property
-  Roads

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analysis. Sources: RIGIS, Town of Middletown. Author: AG.

Date Saved: 2/27/2023



TOWN OF MIDDLETOWN

Allowable Locations
Marijuana Zoning Ordinance Amendment


Cannabis Product Manufacturer

This map depicts the areas where a cannabis product manufacturer could be located, subject to a special use permit and other restrictions in the proposed ordinance.

Allowable areas are:


1. Light Industrial and Office Park zoning districts
2. Greater than 100 feet from a residential zone or use property line
3. Greater than 200 feet from a house of worship, park, playground, or youth center
4. Greater than 500 feet from a school or licensed day-center center.

Legend

-  LI - Light Industrial
-  OP - Office Park
-  Not Allowed
-  Airport Property
-  Roads

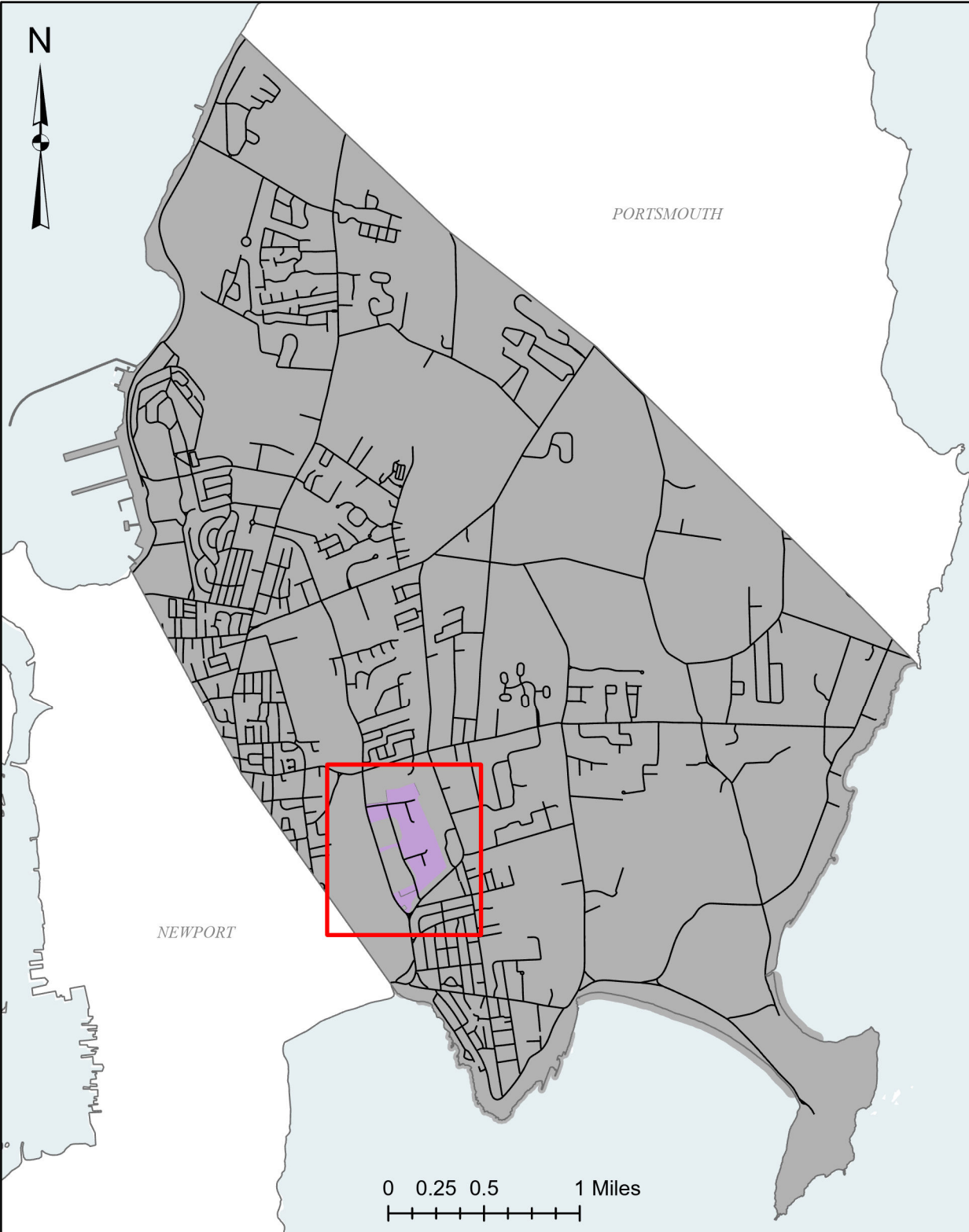
NEWPORT

PORTSMOUTH

0 0.25 0.5 1 Miles


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TOWN OF MIDDLETOWN

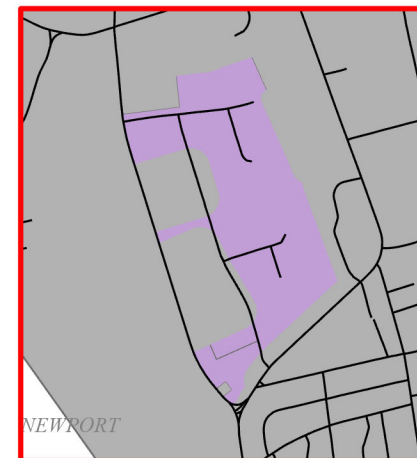
Allowable Locations
Marijuana Zoning Ordinance Amendment

Cannabis Laboratory




This map depicts the areas where a cannabis laboratory could be located, subject to a special use permit and other restrictions in the proposed ordinance.

Allowable areas are:

1. Office Park zoning districts
2. Greater than 100 feet from a residential zone or use property line
3. Greater than 200 feet from a school, licensed day-center center, house of worship, park, playground, or youth center



Legend

-  OP - Office Park
-  Not Allowed
-  Roads

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Date Saved: 2/27/2023